IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO. 1114 OF 2005

IN

CRIMINAL APPEAL NO. 957 OF 2004

The State of Maharashtra ..... Appellant.

versus

Raosaheb Rangnath Ganji & ors..... Respondents.

.....

Mrs. U.V.Kejariwal APP for State.

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CORAM ; V.G.PALSHIKAR &
SMT. NISHITA MHATRE, JJ.

DATED; 15TH MARCH, 2005.

P.C.;

1. By this application the State seeks permission to lodge appeal against acquittal in Sessions Case No. 100 of 2003 by IInd Ad-hoc Additional Sessions Judge, Nashik. The learned judge on appreciation of the evidence came to the conclusion that the prosecution has failed to prove that the dead body was of the person it alleged to be. Unless the prosecution establishes that the dead body belongs to an identified person and then finds that it is caused by the accused, a conviction under section 302 IPC may not be possible. In this case, there is no specific identification of the dead body. There cannot be an inferential

conclusion that the body must belong to so and so. There has to be cogent evidence established on the fact disclosing on such evidence has resulted in acquittal, which finding is neither wrong nor perverse. There is therefore no need to grant leave to appeal in this case. Application for leave accordingly rejected.

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